

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LOUBERT ALEXANDRE, YVON AUGUSTIN,
MAX CHARTELAIN, WILFRED GERMAIN, CLAUDE
LESSAGE, and JEAN PIERRE, INDIVIDUALLY AS
OWNERS OF YELLOW CAB MEDALLIONS IN THE
CITY OF NEW YORK AND ON BEHALF OF A CLASS
OF ALL OWNERS SIMILARLY SITUATED, AS WELL AS
INDIVIDUALLY, TOGETHER WITH MAMNUNUL HAQ
and ASIM AKHTAR, AS HOLDERS OF HACK
LICENSES IN THE CITY OF NEW YORK AND AS
REPRESENTATIVES ON BEHALF OF A CLASS OF
ALL HOLDERS OF HACK LICENSES IN THE CITY OF
NEW YORK, and the NEW YORK TAXI WORKERS
ALLIANCE,

Civil Action No.

AFFIDAVIT OF
YVON AUGUSTIN

Plaintiffs,

- against -

THE NEW YORK CITY TAXI AND LIMOUSINE COM-
MISSION, MATTHEW DAUS, AS COMMISSIONER
/CHAIR OF THE NEW YORK CITY TAXI AND LIMO-
USINE COMMISSION, AND THE CITY OF NEW YORK,

Defendants.

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STATE OF NEW YORK)
 SS.:
COUNTY OF NEW YORK)

YVON AUGUSTIN, being duly sworn, deposes and says:

1. I am the plaintiff in this proceeding and make this affidavit in support of the
instant motion for a temporary restraining order and preliminary injunction.

2. I reside in the county of Queens, New York. I am a small business owner who
owns both a yellow cab medallion and a yellow cab vehicle. My medallion number is 9D79.
My hack license number is 493637. I have had my hack license since 1997, approximately ten

years.

3. I bought my medallion in year 2005 for the price of THREE HUNDRED THIRTY FIVE THOUSAND DOLLARS("\$335,000.00").

4. I bought my yellow cab vehicle, which is a Toyota Sienna in 2005 for approximately THIRTY THOUSAND DOLLARS ("30,000.00").

5. My sole means of livelihood for the last ten years has been to drive a yellow taxi vehicle. I currently drive my yellow taxi cab six days a week to earn my living.

6. My monthly operating costs of my medallion and yellow taxi cab are approximately SIX THOUSAND DOLLARS ("6,000.00"), itemized roughly as follows:

A)	Medallion Loan Payment:	\$3,300.00 per month
B)	Yellow Cab Vehicle Loan Payment:	\$1,058.36 per month
C)	Yellow Cab Vehicle Insurance Payment:	\$350.00 per month
D)	Oil Change:	\$100.00 per month
E)	Gas:	\$1,080.00 per month
F)	Rate Card:	\$1410 every two years
G)	Tax Stamp:	\$1,000 per year
H)	License Renewal Fee:	\$120 every two years
I)	Annual Drug Test Fee:	\$25 per year
J)	Wear and Tear/Maintenance:	\$3,000.00-\$5,000 per year

7. In reference to #6 (J) above, by way of example, I just had to purchase a new transmission for my yellow taxi vehicle for the amount of FIVE THOUSAND DOLLARS ("5,000.00") in January 2007. I also had to purchase a new Radiator for the amount of SIX

HUNDRED DOLLARS (“\$600.00”) in January 2007. I also had to purchase a new upper and lower control arm system for SEVEN HUNDRED DOLLARS (“\$700.00”).

8. Defendant TLC has declared mandatory that before August 1, 2007 I sign a contract for the installation of the Taxi Technology System (“TTS”) with one of their chosen vendors. The pieces of equipment necessary to operate TTS are: 1) a text message box; 2) a credit card machine; 3) a Passenger Information Monitor and 4) software to create an electronic trip sheet, which includes GPS technology. All of these items must be physically installed inside of my taxi by no later than October 11, 2007, which is my first inspection date after October 1, 2007.

9. For the installation of the TTS technology, TLC is forcing me to bear an upfront installation cost, which I understand from the TLC website, the TLC has estimated to be between “\$10 and \$4,115”.

10. From the TLC’s website, I have learned that the TTS technology also requires me to pay to the vendor a monthly service fee which I understand the TLC has estimated to cost me between ” \$43 and \$200”.

11. I also understand from the TLC website that the TLC cites the maximum costs of the technology over the term of a contract as being “between \$2,900 and \$7,200 based upon the contract between the vendors and the TLC, advertising fees may offset costs.”

12. TLC’s new TTS rules, which are posted on the TLC website, also mandate that if the technology malfunctions, I am required to report it within two hours and is must be repaired within forty eight hours by particular vendors’ service center.

13. Each time the technology malfunctions, I will have to take my medallion and

vehicle off the road and lose my livelihood while I take the taxi to the repair shop and for the time period my taxi is kept off the road while the malfunction is being fixed, without any compensation by the TLC.

14 The TLC's new rules also say that I must bear the cost of the transaction fee for each credit and debit card transaction which they have estimated will be no less than 2.5% and may be as high as five percent (5%) of each fare. I believe that such transaction fees will result in a huge loss of revenue for me.

15. I do not believe I can afford the burden of the extra imposed costs of TTS no matter which vendor I choose to sign with.

16. The TLC is forcing me to take on these costs when I am already burdened with the present operating costs of my medallion and yellow taxi cab vehicle.

17. I have not signed a contract with any of the vendors to date.

18. On or about August 24, 2007, I received Summons #PIM0167 from the TLC requiring my appearance for a hearing scheduled at 1:30 P.M. on September 10, 2007 charging me with a violation of TLC Owner Rules Sec.1-11(g) for failure to sign a contract with a TLC authorized vendor to "buy, lease, rent or use a Taxicab Technology Enhancements System and Service for [my] medallion". Violation of Rule 1-11(g) carries a penalty of "\$250 and suspension until compliance". See Copy of Summons #PIM0167 as Exhibit A attached hereto. See copy of Rule 1-11(g) in TLC's TTS Regulations attached as Exhibit A to Complaint..

19. The TLC's website also says that if I don't install the technology into my yellow taxi cab by no later than October 11, 2007, I could face fines and the suspension of my

medallion.

20. If the TLC suspends my medallion because I have not signed the contract or if I don't install the technology, I will face the irreparable harm of not being able to earn my livelihood, while continuing to bear the fixed costs for my medallion and vehicle payments, as well as the costs of supporting my family. I have three children, ages 21, 18, and 16. My elderly parents in Haiti are also financially dependant on monies I send them from here.

21. On the other hand, if I do sign a contract with a vendor, I will be forced to install the TTS and I believe I will be driven out of my job because I cannot afford the extra costs associated with the TLC technology mandate.

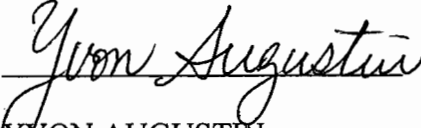
22. I also feel that the GPS component of the TLC mandated technology is an invasion of my privacy because it will track me every single minute of the day, seven days a week and twenty four hours each day, even when I am off-duty and using my yellow taxi vehicle for my own personal use.

23. While I always comply with TLC's rule prohibiting me from refusing a fare, as part of my occupation each day I make a personal choice of where to start my shift, when to take my bathroom and food breaks, and many other factors based on what I believe to be most profitable and suitable on a given day. I deem this information and even more significantly, information such as the choices of routes that I make to transport my passengers from Point A to Point B as my proprietary information. GPS will capture and record information. As a small businessman, I feel my right to keep such information private is as valuable to me as Coke's recipe of secret ingredients is to Coke.

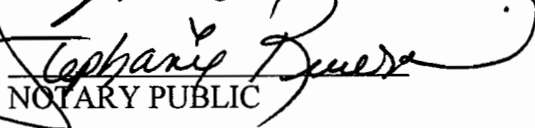
24. The medallion, the yellow taxi cab vehicle, and the hack licence are my

properties. I do not think its fair that the government should force me to rip up my taxi cab and put in all this new technology into my property when I never asked for it, I have no desire for it, and it is too expensive for me to afford. When I purchased my medallion, taxicab and obtained my hack license, I did not know that one day the government would be allowed to reach its hands into my property to install four pieces of physical gadgetry and make me bear the exorbitant cost of operating such a technology. My investment in the medallion and yellow taxi cab vehicle should be looked at no differently than that of any other small business owner.

25. If the court does not intervene, I face suspension of my medallion on September 10th, 2007 for failure to sign a contract with a vendor. I do not want to install TTS into my property and the TLC is forcing me to do so or else face the irreparable harm of both losing my livelihood and suffering a physical permanent change to the inside of my property without my consent.


YVON AUGUSTIN

Sworn to before me this
29th day of August, 2007


NOTARY PUBLIC

STEPHANIE RIVERA
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01RI6138998
QUALIFIED IN KINGS COUNTY
MY COMMISSION EXPIRES DEC. 27, 2009.

EXHIBIT A



Uniformed Services Bureau
24-55 Brooklyn Queens Expressway West
Woodside, NY 11377

Matthew W. Daus, Commissioner/Chair

Today's Date: 8/22/2007

AUGUSTIN, YVON
88-24 MERRICK BOULEVARD 5N
JAMAICA, NY 11432

Your Medallion #: 9D79

THIS IS SUMMONS # PIM0167

You are hereby charged with a violation of the N.Y.C. Taxi and Limousine Commission's (TLC) Owners Rules, Sec. 1-11(g), in that as of August 1, 2007, you failed to sign a contract with an authorized taxicab technology service provider to buy, lease, rent or use a Taxicab Technology Enhancements System and Service for each medallion you own.

You are hereby summoned to appear for a hearing at the TLC's Adjudications Division, located at 32-02 Queens Boulevard, Long Island City, New York 11101 at 1:30:00 PM on 9/10/2007

WHEN APPEARING AT YOUR HEARING YOU HAVE THE FOLLOWING RIGHTS /OBLIGATIONS:

YOU MUST APPEAR IN PERSON TO ANSWER THIS SUMMONS. THE PENALTY FOR VIOLATION OF SECTION 1-11(g) OF THE TLC'S MEDALLION OWNER'S RULES IS \$250 AND SUSPENSION UNTIL COMPLIANCE. YOUR FAILURE TO APPEAR WILL BE CONSIDERED A DEFAULT.

IF YOU HAVE A CONTRACT OR CONTRACTS WITH AN AUTHORIZED TAXICAB TECHNOLOGY SERVICE PROVIDER, YOU MUST BRING AN ORIGINAL OR ORIGINALS OF THE CONTRACT TO THE HEARING.

1. You must bring with you an original dated contract for the Taxicab Technology Enhancements System and Service for each medallion you own, signed by an authorized contractor and you or your taxicab agent. If your taxicab agent signed on your behalf, you must also bring your original taxicab agent contract.
2. You may be accompanied by an attorney or a non-attorney representative duly authorized by the Commission. If you are a corporation, it may be represented by an officer, director, or employee of the corporation designated as an agent for the corporation. If you are a partnership, it may be represented by any partner. You may also bring a witness(es) and any evidence that supports your case.
3. If you are found in violation of Section 1-11(g), your license will be suspended until compliance and all fines must be paid in cash or by certified check, money order or credit card on the date that the fine is imposed. Failure to pay any fine imposed will result in further grounds to suspend your license(s) and may result in other actions to collect such fine.
4. Failure to appear for your scheduled hearing without having been granted an adjournment or withdrawal of the complaint by the TLC will result in a hearing being held and a decision rendered in your absence, which may result in a fine and/or suspension of your license(s).
5. Any request for an adjournment must be made in person at the TLC's Adjudications Division at least five (5) business days prior to and excluding the hearing date.

COMPLAINANT: Michael Friscia

"I certify that this is a true copy of a summons inserted by me in an envelope addressed to the named respondent at the address set forth thereon and deposited in the normal course of business with the TLC mail service."

TLC Employee Signature

Date:

08/23/07